

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
EASTERN DIVISION**

LEE LOEW,

Plaintiff,

v.

**Civil Action 2:19-cv-5242
Judge James L. Graham
Magistrate Judge Kimberly A. Jolson**

REGRET INC., et al.,

Defendants.

REPORT AND RECOMMENDATION

This matter is before the Court on Plaintiffs’ Motion for Show Cause Order Regarding Defendants’ Witness Garth Stanley (the “Show Cause Motion”) (Doc. 79). Mr. Stanley failed to comply with two separate subpoenas for deposition testimony and document production without adequate cause. The Undersigned issued a Show Cause Order directing Stanley, “to appear and show cause why they should not be held in contempt.” (Doc. 82). In that Order, the Undersigned set a show cause hearing for June 2, 2021. The Order advised that, failure to appear and show cause, “will result in Mr. Stanley being held in contempt and issued monetary fines.” (*Id.*). Copies of that Order were sent to Mr. Stanley by regular and certified mail. (*See* Mailing Notice dated May 19, 2021).

On June 2, 2021, the Undersigned held a show cause hearing at 10:00 a.m. Despite having adequate notice of that hearing, Mr. Stanley did not appear. Having failed to comply with the Court’s Order (Docs. 82), the Undersigned finds that further action—and potentially civil contempt sanctions—are appropriate.

“[I]ncarceration has long been established as an appropriate sanction for civil contempt.” *Singh v. Capital Univ. Law & Graduate Ctr.*, 238 F.3d 424 (6th Cir. 2000) (collecting cases). “As

used in the civil context, . . . incarceration must be conditional[.]” (*Id.*). Accordingly, to ensure Mr. Stanley’s compliance with the Court’s Order, it is **RECOMMENDED** that the Court **GRANT** Plaintiff’s Motion (Doc. 79) and require Mr. Stanley to show cause why he should not be held in contempt. If he fails to appear, it is further **RECOMMENDED** that the Court **HOLD GARTH STANLEY in CONTEMPT**. Specifically, if Mr. Stanley does not comply with Plaintiff’s subpoenas (Docs. 79-1, 79-3) within **SEVEN DAYS** of the adoption of this Report and Recommendation, it is **RECOMMENDED** that the Court require Mr. Stanley to show cause, and, if he fails to do so, issue a warrant for the arrest of Garth Stanley until such time as he complies with the subpoenas. The Court emphasizes that these potential sanctions are conditional and designed only to ensure Mr. Stanley’s compliance. Mr. Stanley, therefore, may purge himself of his contempt, and avoid the above punishment, by working with Plaintiff and his counsel to resolve this matter.

The Clerk is **DIRECTED** to mail a copy of this Order, by regular and certified mail, to:

Garth Stanley
56 7th Ave., SW
Pataskala, OH 43062

The Clerk shall indicate on the docket the fact of that mailing.

PROCEDURE ON OBJECTIONS

If any party objects to this Report and Recommendation (“R&R”), that party may, within fourteen days of the date of this R&R, file and serve on all parties written objections to those specific proposed findings or recommendations to which objection is made, together with supporting authority for the objection(s). A District Judge of this Court shall make a *de novo* determination of those portions of the report or specified proposed findings or recommendations to which objection is made. Upon proper objections, a District Judge of this Court may accept,

reject, or modify, in whole or in part, the findings or recommendations made herein, may receive further evidence or may recommit this matter to the Magistrate Judge with instructions. 28 U.S.C. 636(B)(1).

The parties are specifically advised that failure to object to this R&R will result in a waiver of the right to have the District Judge review the R&R *de novo*, and also operates as a waiver of the right to appeal the decision of the District Court adopting the R&R. *See Thomas v. Arn*, 474 U.S. 140 (1985); *United States v. Walters*, 638 F.2d 947 (6th Cir. 1981).

IT IS SO ORDERED.

Date: June 2, 2021

/s/ Kimberly A. Jolson
KIMBERLY A. JOLSON
UNITED STATES MAGISTRATE JUDGE